

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

UNITED STATES OF AMERICA for the use of	)	
WATERFURNACE INTERNATIONAL, INC., an	)	
Indiana corporation,	)	
	)	
Plaintiff,	)	
v.	)	No: 07 C 7256
	)	
VARIO CONSTRUCTION COMPANY, INC., an	)	
Illinois corporation, CHARPIE CONSTRUCTION	)	
CO., INC. an Illinois corporation and TRAVELERS	)	
CAS. & SURETY CO. OF AMERICA, a Maryland	)	
corporation, and JAMES F. RIO, individually,	)	
	)	
Defendants.	)	
	)	

**WATERFURNACE INTERNATIONAL, INC.'S  
VOLUNTARY MOTION TO DISMISS ITS COMPLAINT FOR BREACH OF  
CONTRACT AND CLAIM UNDER THE MILLER ACT**

Plaintiff, the UNITED STATES OF AMERICA for the use of WATERFURNACE INTERNATIONAL, INC., by its attorneys, James T. Rohlfing and Richard T. Niemerg, moves to voluntarily dismiss its Complaint against VARIO CONSTRUCTION COMPANY, INC. (hereinafter "VARIO CONSTRUCTION"), CHARPIE CONSTRUCTION CO., INC., TRAVELERS CAS. & SURETY CO. OF AMERICA and JAMES F. RIO.

**VOLUNTARY MOTION TO DISMISS**

1. This action arises and the court has jurisdiction under the Miller Act, 40 U.S.C. §§3131-3134.
2. Venue is proper under the Miller Act, 40 U.S.C., §3133(b)(3).

3. On December 27, 2007, WATERFURNACE INTERNATIONAL, INC., filed its complaint for breach of contract and other relief.

4. WATERFURNACE INTERNATIONAL, INC. has reached an agreement with VARIO CONSTRUCTION COMPANY, INC. AND CHARPIE CONSTRUCTION CO., INC., RESOLVING all counts of WATERFURNACE INTERNATIONAL, INC.'S complaint.

WHEREFORE, Plaintiff, WATERFURNACE INTERNATIONAL, INC., prays this Court enter an order dismissing its Complaint, with each party to bear their own costs.

**Waterfurnace International, Inc.**, an Indiana corporation,

By: /s/ Richard T. Niemerg  
One of its attorneys

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